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Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-441

DR. SID E. WILLIAMS, et al.,

Petitioners,

vs.

DR. WALTER C. BORNEMEIER, et al.

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM OPPOSING CERTIORARI

SUBMITTED ON BEHALF OF
RESPONDENT
OHIO STATE MEDICAL BOARD

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RESPONDENT'S MEMORANDUM OPPOSING CERTIORARI

MEMORANDUM OPPOSING CERTIORARI

Petitioners, chiropractors not licensed by this Respondent, attack the constitutionality of the Ohio Medical Practices Act, Ohio Revised Code, Chapter 4731. This is their primary claim, which the court below, the Sixth Circuit Court of Appeals, noted. Ancillary to and in conjunction with this are claims which allege that this Respondent has acted in conspiracy with Respondents, American Medical Association and Ohio State Medical Association, to violate Petitioner's rights under federal civil rights and antitrust statutes.

In this case the District Court for the Southern District of Ohio declined to convene a three-judge court and dismissed the action for failure to state a claim upon which relief could be granted. The Court of Appeals affirmed and noted that the District Court had "assessed the substantiality of the constitutional issues presented . . . [and] found [such] either foreclosed by prior decisions of the Supreme Court or patently without merit."

Further, within the past year this Court has had before it three petitions for certiorari which made the same constitutional attacks upon the Ohio Medical Practices Act, which involved two of the petitioners of the instant case (Frank S. Ream and Carson O'Dell), and which were prepared by the same attorney as present. *O'Dell v. Ohio State Medical Board,* No. 71-5682; *Ream v. Ohio,* No. 71-1087; *Ream v. Ohio,* No. 70-5259. Certiorari was denied in each case. *O'Dell v. Ohio State Medical Board,* —U.S.—, 31 L.Ed.2d 798 (1972); *Ream v. Ohio,* —U.S.—, 32 L.Ed.2d 116 (1972); *Ream v. Ohio,* —U.S.—, 30 L. Ed.2d 76 (1972). The claims raised by Petitioners regarding the federal civil rights and antitrust statutes were also raised in one or more of the just named cases.

Reasons for denying the petition for a writ of certiorari are fully set forth in the opinions of the District Court for the Southern District of Ohio and the Sixth Circuit Court of Appeals, as yet unreported but contained in the Appendix to Petitioners' brief at pages 61 and 71 respectively.

THEREFORE, the petition for certiorari should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of October, 1972, three copies of the Memorandum Opposing Certiorari were mailed, postage prepaid to, Frank O. Walther, Esq., 124 Booth Lane, Haverford, Pennsylvania, Counsel for the Petitioners and Tom O. Morgan, attorney in *pro per,* Highway 45 South, Verona, Mississippi. I further certify that all parties required to be served have been served.

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